

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE SALE OF THE STOCK OF UNION TELEPHONE COMPANY AND ARMOUR INDEPENDENT TELEPHONE COMPANY, INCLUDING ITS WHOLLY-OWNED SUBSIDIARY BRIDGEWATER-CANISTOTA INDEPENDENT TELEPHONE COMPANY TO MJD SERVICES CORP.)))))))	FINAL DECISION AND ORDER APPROVING SALE OF STOCK; NOTICE OF ENTRY OF ORDER TC99-005
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On January 13, 1999, the Public Utilities Commission (Commission) received a Joint Application from Union Telephone Company (Union) and Armour Independent Telephone Company (Armour), including its wholly-owned subsidiary, Bridgewater-Canistota Independent Telephone Company (Bridgewater-Canistota), and MJD Services Corp. (MJD). The applicants requested approval of the sale of the Union and Armour stocks to MJD. The applicants stated that "[w]hile the Union, Armour, and Bridgewater-Canistota stocks are being sold to MJD, an affiliate of MJD, ST Enterprises, Ltd. (STE) will manage the Union, Armour, and Bridgewater-Canistota exchanges after the sale."

On January 13, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of January 29, 1999, to interested individuals and entities. No petitions to intervene or comments were filed.

A hearing was scheduled for March 10, 1999, at 1:30 p.m., at 108 North Main Avenue, Hartford, South Dakota. The hearing was held as scheduled. After hearing the evidence, the Commission voted unanimously to approve the sale of stock, subject to certain conditions.

The Commission having reviewed the evidence of record and being fully informed in the matter makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Union is an independent telephone company that operates two exchanges serving Hartford and Wall Lake. Exhibit 2 at 2. The exchanges have approximately 1,599 access lines. Id.
2. Armour operates one exchange serving the community of Armour. Id. The exchange has approximately 693 access lines. Id.
3. Bridgewater-Canistota operates two exchanges serving the communities of Bridgewater and Canistota. Id. at 3. The exchanges have approximately 961 access lines. Id.
4. MJD operates 17 local exchange companies serving over 128,000 access lines in 10 states. Id. at 2. STE is an affiliate of MJD and will provide managerial, accounting, and other support services to the exchanges. Id.
5. During the hearing in Hartford, there was no public opposition to the sale of the stock.

ADEQUACY OF LOCAL TELEPHONE SERVICE

6. MJD will honor all existing contracts, commitments, leases, and other arrangements and will not eliminate any services currently provided by Union, Armour, and Bridgewater-Canistota. Id. at 6.
7. MJD will retain all current employees, except for the three primary owners. Id. Customers will continue to be

able to make trouble reports and ask service questions by calling a local or toll-free number. Id.

REASONABLENESS OF RATES

8. MJD has no plans to increase the existing rates for at least 18 months. Id. at 3.

PUBLIC SAFETY ISSUES

9. MJD will continue to provide existing emergency services. Id. at 4.

ABILITY OF THE BUYER TO PROVIDE SERVICE

10. MJD is fit, willing, and able to purchase and thereafter operate, maintain, and upgrade to the level required by the Commission the facilities of the three companies. Id. at 3-9.

11. MJD has the ability to obtain capital and the incentive to invest in the three companies. Exhibit 1. MJD will repair and replace facilities as needed and will upgrade facilities with new technologies when needed to provide new services. Id. at 5.

12. MJD will support local economic development efforts and will work with the schools, libraries, and health organizations to meet their telecommunications needs. Id. at 4, 6-7.

PROTECTION OF THE PUBLIC INTEREST

13. MJD's purchase of the three companies is in the public interest of the customers within the companies' exchanges for the following reasons:

- a. Quality local service will be maintained;
- b. The customers of the exchanges will continue to receive customer service through the same business office;
- c. Rates will not increase for at least 18 months as a result of the sale;
- d. Emergency services will continue to be provided to the exchanges at the level currently provided; and
- e. Customers in the exchanges will be able to obtain additional, advanced telecommunications services as needed.

Id. at 3-9.

TAXES

14. There will be no changes in the taxes paid as a result of the sale of the stock. Id. at 7.

CONDITIONS OF SALE

15. The Commission shall approve the proposed sale of the stock of Union and Armour, including its wholly-owned subsidiary Bridgewater-Canistota, subject to the following conditions:

1. That current local rates not be increased for 18 months from the date MJD begins to operate the purchased exchange;
2. That MJD shall not recover any of the acquisition adjustment through its regulated interstate or intrastate rates, through its local rates, or through federal or state universal service funds;
3. That MJD shall honor all existing contracts, commitments, leases, licenses, and other agreements which relate to, arise from, or are used for the operation of the purchased exchange;
4. That MJD offer, at a minimum, all existing services currently offered by the purchased exchange; and
5. That MJD not discontinue any existing extended area service without first obtaining approval from the Commission.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the sale of stock of Union and Armour, including its wholly- owned subsidiary Bridgewater-Canistota, to MJD pursuant to SDCL Chapters 1-26 and 49-31, specifically 1-26-17.1, 49-31-3, 49-31-3.1, 49-31-4, 49-31-5.1, 49-31-7, 49-31-7.1, 49-31-11, 49-31- 18, 49-31-19, 49-31-20, 49-31-21, and 49-31-59.
2. The hearing held by the Commission relative to this matter was an evidentiary hearing pursuant to SDCL Chapter 1-26.
3. The Commission has considered, among other things, the requirements of SDCL 49-31-59 in regard to the proposed sale of stock, and protection of the public interest pursuant to SDCL 49-31-7. The Commission finds that it is in the public interest to approve the sale of stock because the sale will enable the customers to continue to receive high quality service.
4. MJD has satisfied its burden of proof under SDCL Chapter 49-31, specifically 49-31-3, 49-31-3.1, 49-31-4, 49-31-5.1, 49-31-7, 49-31-7.1, 49-31-11, 49-31-18, 49-31-19, 49-31-20, 49-31-2,1 and 49- 31-59 for approval of the sale of stock of Union and Armour, including its wholly-owned subsidiary Bridgewater-Canistota, to MJD.
5. The Commission has considered the adequacy of local telephone service in reviewing this sale of stock. MJD is required to provide all services currently offered. In addition, MJD must honor existing contracts and other agreements.
6. The Commission has also considered the reasonableness of local rates. The Commission finds that rates for the customers will remain at the same levels and there will be no increase in rates for at least 18 months. Further, MJD is prevented from recovering any of the acquisition adjustment through local rates.
7. Any existing public safety services currently provided will continue.
8. The Commission has determined that there will be no change in the amount of taxes paid as a result of the sale of stock.
9. The Commission has determined that MJD has the ability to provide modern state-of-the-art telecommunications services that will facilitate economic development, telemedicine, and distance learning in rural South Dakota after the sale.
10. The Commission approves the sale of stock of Union and Armour, including its wholly-owned subsidiary Bridgewater-Canistota, to MJD.

Pursuant to SDCL Chapter 1-26, the Commission hereby enters its final decision in this docket. It is therefore

ORDERED that the sale of stock of Union and Armour, including its wholly-owned subsidiary Bridgewater-Canistota, to MJD is approved subject to the Conditions of Sale.

PLEASE TAKE NOTICE that this Decision and Order in Docket TC99-005 was duly entered this 18th day of March, 1999, and filed in the Commission's docket.

Dated at Pierre, South Dakota, this 18th day of March, 1999.

CERTIFICATE OF SERVICE

BY ORDER OF THE COMMISSION:

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____

Date: _____

(OFFICIAL SEAL)

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner